

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

SAMUEL SILVA,

Petitioner,

v.

Civ. 1:20-cv-00208-KWR-SCY
Cr. 1:14-cr-04067-KWR-SCY-1

UNITED STATES OF AMERICA,

Respondent.

**ORDER ADOPTING MAGISTRATE JUDGE’S
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

THIS MATTER is before the Court on Petitioner Samuel Silva’s “Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody” (Civil “CV” Doc. 1; Criminal “CR” Doc. 243) and Petitioner’s Amended Motion to Vacate (CV Doc. 10). Pursuant to 28 U.S.C. § 636(b)(1)(A) and *Va. Beach Fed. Sav. & Loan Ass’n v. Wood*, 901 F.2d 849 (10th Cir. 1990), the Court referred this matter to Magistrate Judge Steven C. Yarbrough to conduct hearings, if warranted, and to perform any legal analysis required to recommend an ultimate disposition of the case. CV Docs. 16, 17, 25.

On October 14, 2021, Judge Yarbrough entered his Proposed Findings and Recommended Disposition (“PFRD”) in which he recommends denying relief on all ground of Petitioner’s motion to vacate. CV Doc. 23. Judge Yarbrough notified the parties that they had 14 days from the service of the PFRD to file any objections to the PFRD. *Id.* at 37. The parties have not filed any objections to the PFRD, thereby waiving their right to review of the proposed

disposition.¹ *See United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996). Furthermore, upon review of the PFRD, the Court concurs with Judge Yarbrough's findings and recommendation.

WHEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

1. The Magistrate Judge's Proposed Findings and Recommended Disposition (CV Doc. 23) is **ADOPTED**;
2. Petitioner's Motion to Vacate Under 28 U.S.C. § 2255 (CV Doc. 1; CR Doc. 243) and Petitioner's Amended Motion to Vacate Under 28 U.S.C. § 2255 (CV Doc. 10) are **DENIED** and this case is **DISMISSED**;
3. A certificate of appealability is **DENIED**;
4. A final order shall be **ENTERED** concurrently herewith.

IT IS SO ORDERED.


KEA W. RIGGS
UNITED STATES DISTRICT JUDGE

¹ Prior to the entry of the PFRD, some mail sent to Mr. Silva was returned to the Court as undeliverable. *See* Docs. 18, 19, 21. The Court therefore ordered Mr. Silva to update his current address, which he did on August 27, 2021. Doc. 22. The PFRD was then sent to his updated address and there is no indication on the record that Mr. Silva did not receive the PFRD or that he is located at another new address.